

## **Remarks**

Claims 51-53, 55 and 71-73 have been canceled without prejudice, and claims 50, 54, and 56-58 have been amended without prejudice. Applicants specifically reserve the right to prosecute a continuing application directed to the cancelled claims. Claims 45-50, 54, and 56-61 are pending after entry of the present amendment.

Applicants thank the Examiner for his/her suggestion that claims 45-50, 54, and 56-61 are allowable and would be allowed upon cancellation of non-allowed claims. Applicants have canceled the non-allowed claims without prejudice. Applicants have amended claims 54, and 56-58 for clarity. No new matter enters by way of the clarifying amendments. As such, entry of the present amendment and allowance of the pending claims is respectfully requested. In view of the foregoing amendments, Applicants submit the application is in condition for allowance and solicit a Notice of Allowance indicating such at the earliest possible time.

### **1. Rejection Under 35 U.S.C. § 112, First Paragraph**

Claims 51-53 were rejected under 35 U.S.C. § 112, first paragraph, for purportedly not addressing the unpredictability of and lack of guidance for expressing a gene coding for a mammalian peptide in a plant cell in such a way that the expressed peptide would have a physiological effect upon ingestion by a mammal. Final Action at page 3. Applicants respectfully disagree, but to facilitate prosecution, Applicants have canceled claims 51-53 without prejudice. Claims 71 and 73 were rejected under 35 U.S.C. § 112, first paragraph, for allegedly not enabling dicotyledonous plant cells that express a mammalian peptide linked to a transit peptide. *Id.* Applicants respectfully disagree, but to facilitate prosecution, Applicants have canceled claims 71 and 73 without prejudice. As such, the rejection under 35 U.S.C. § 112, first paragraph, has been rendered moot by the foregoing claim amendments.

### **2. Rejection Under 35 U.S.C. § 112, Second Paragraph**

The examiner has rejected claims 52 and 53 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Final Action at page 4. The examiner contends the phrases

“physiological effect” and “regulation of digestive function” in the recited claims are indefinite because they do not indicate which aspects of mammalian physiology may be affected by the ingestion of a peptide, and because they do not indicate which aspects of digestive function may be regulated. Final Action at page 5. Applicants respectfully disagree. When read in light of the specification, the meaning of “physiological effect” and “regulation of digestive function” are clear to one of ordinary skill in the art. However, to facilitate prosecution, Applicants have canceled claims 52 and 53 without prejudice. Claims 72 and 55 (a dependent of claim 72) were rejected under 35 U.S.C. § 112, second paragraph, for supposedly being indefinite because of the recitation of “an integrated sequence”. *Id.* at page 6. Applicants respectfully disagree, but to facilitate prosecution, claims 72 and 55 have been canceled without prejudice. As such, the rejection under 35 U.S.C. § 112, second paragraph, has been rendered moot by the foregoing claim amendments.

### Conclusion

As all of the stated grounds of objection and rejection have been properly rendered moot, Applicants respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kristan Lansbery". The signature is fluid and cursive, with the first name "Kristan" and last name "Lansbery" clearly distinguishable.

David R. Marsh (Reg. Attorney No. 41,408)  
Kristan L. Lansbery (Reg. Agent No. 53,183)

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ARNOLD & PORTER  
555 Twelfth Street, N.W.  
Washington, DC 20004-1206  
(202) 942-5000 telephone  
(202) 942-5999 facsimile